



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Luyten et al.) Group Art Unit 1647
Appl. No. : 09/574,819)
Filed : May 19, 2000)
For : DNA MOLECULES)
ENCODING CARTILAGE-)
DERIVED)
MORPHOGENETIC)
PROTEINS)

RECEIVED
OCT 17 2002
TECH CENTER 1600/2900

Examiner : Romeo, D.

STATEMENT OF BIOLOGICAL DEPOSIT

United States Patent and Trademark Office
P.O. Box 2327
Arlington, VA 22202

Dear Sir:

I, Malcolm Moos, Jr., M.D., Ph.D., an inventor of the above-identified application, hereby state:

1. That the following biological material referred to in the specification of this application has been deposited:

Strain	Accession number
hCDMP-1	PTA-2595

2. That the date of the above deposit is October 16, 2000, which is after the U.S. filing date of this application, and the biological material, which is deposited, is a biological material specifically identified in the application as filed, on page 10, lines 11-12 ("The nucleotide sequence and the translation of the open reading frame of CDMP-1 are presented in Figure 1.").

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3. That the name and address of the depository is:
American Type Culture Collection (ATCC)
10801 University Blvd.
Manassas, Virginia 20110, U.S.A.
4. That a statement that the culture(s) deposited with the above named depository was (were) viable and was (were) capable of reproduction, if appropriate, on the date of deposit is attached. Such statement is executed by the depository.
5. That, with respect to the permanence of the culture(s) deposit, the depository is an official depository, in accordance with the Budapest Treaty for the above deposited culture(s). I state that should the microorganism(s) mutate, become nonviable or be inadvertently destroyed, applicants will replace such microorganism(s) for at least 30 years from the date of the original deposit, or at least 5 years from the date of the most recent request for release of a sample or for the life of any patent issued on the above-mentioned application, whichever period is longer.
6. That, with respect to availability of the culture(s), I state that the deposit has been made under conditions of assurance of (a) ready accessibility thereto by the public if a patent is granted whereby all restrictions to the availability to the public of the culture so deposited will be irrevocably removed upon the granting of the patent, with the one exception being that permitted by 37 C.F.R. § 1.808, and (b) access to the culture will be available during pendency of the patent application to one determined by the Commissioner to be entitled under 37 C.F.R. § 1.14 and 35 U.S.C. § 122.
7. A comparison of the nucleotide (SEQ ID NO:1) and amino acid (SEQ ID NO:2) sequences in USP 5,994,094 to Hotten et al. with the nucleotide (SEQ ID NO:11) and amino acid (SEQ ID NO:13) sequences in PCT/US94/12814 to Applicant appears to reveal that there are 8 different amino acids. It turns out that Applicant's nucleotide (SEQ ID NO:11) and amino acid (SEQ ID NO:13) sequences contain sequencing

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errors. Correcting for errors, a comparison reveals that the protein-encoding data are identical except for a polymorphism in which the Hotten et al. sequence encodes S (ser) at amino acid position 276 while Applicant's sequence encodes A (ala), due to T (Hotten et al.'s SEQ ID NO:1 at nucleotide position 1465) changed to G (Applicant's SEQ ID NO:11 at nucleotide position 1090). Applicant's nucleotide and amino acid sequences are thus not identical to Hotten et al.'s nucleotide and amino acid sequences because they are polymorphic.

8. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or patent issuing therefrom.

Respectfully submitted,

Dated: September 20, 2002

By: Malcolm Moos Jr, MD PhD
Malcolm Moos, Jr., M.D., Ph.D.

AMEND
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